



Dominican Republic

Country Reports on Human Rights Practices - [2002](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 31, 2003

The Constitution provides for a popularly elected president and a bicameral congress. President Hipolito Mejia of the Dominican Revolutionary Party (PRD) took office in August 2000 after a generally free and fair election, replacing President Leonel Fernandez of the Dominican Liberation Party (PLD). The PRD also controlled the Senate and held the most seats in the Chamber of Deputies. The Constitution provides for an independent judiciary; however, interference from outside forces, including the executive branch, remained a problem.

The National Police, the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the armed forces (army, air force, and navy) formed the security forces. The military's domestic responsibilities included maintaining public order and protecting traffic, industry, commerce, persons, and property. The police were under the Secretary of the Interior and Police; the military was under the Secretary of the Armed Forces; and the DNI and the DNCD, which had personnel from both the police and the military, reported directly to the President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority or control. Members of the National Police and the military committed a number of human rights abuses.

The market-based economy, once heavily dependent on sugar and other agricultural exports, continued to diversify. The country has a population of approximately 8.5 million, excluding an estimated 1 million undocumented Haitians. Tourism, telecommunications, and Free Trade Zone (FTZ) exports were major sources of foreign currency and employment, notwithstanding recent decreases in the growth of tourism and FTZs. Remittances from abroad surpassed \$1.9 billion per year. Economic growth, which exceeded 7 percent per year from 1996 through 2000, was 4.5 percent for the year. Unemployment was estimated at 16 percent. Income distribution in the country was highly skewed.

The Government's human rights record remained poor; although there were significant improvements in some areas, serious problems remained. The number of extrajudicial killings dropped due in large part to the replacement of Police Chief Candelier with General Jaime Marte Martinez. Nonetheless, members of the security forces continued to commit some unlawful killings. The police and—to a lesser degree—the military tortured, beat, or otherwise abused detainees and prisoners. Police on several occasions used excessive force to disperse demonstrators. In a change from previous years, the Government began regularly to refer cases of police and military abuse to the civilian courts, instead of holding nontransparent proceedings in police or military tribunals. Prison conditions ranged from poor to harsh. Some prisoners died in custody due to negligence. Police arbitrarily arrested and detained suspects and suspects' relatives. While the judiciary continued to consolidate its independence and improve the efficiency of the courts, lengthy pretrial detention and long trial delays continued to be problems. The authorities sometimes infringed on citizens' privacy rights, and police entered private homes without judicial orders. Journalists at times practiced self-censorship. The Government restricted the movement of, and forcibly expelled, some Haitian and Dominican-Haitian migrants. Violence and discrimination against women; prostitution, including child prostitution; abuse of children; discrimination against persons with disabilities; discrimination against and abuse of Haitian migrants and their descendants; and child labor were serious problems. There continued to be reports of forced labor. Many workers continued to face unsafe labor conditions. Trafficking in persons was a serious problem. The Dominican Republic was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by government officials; however, members of the security forces committed 126 killings that were unlawful, unwarranted, or involved deadly use of force—a significant drop from 2001, during which more than

250 extrajudicial killings occurred.

This number includes some civilians who were killed in legitimate exchanges of gunfire with police, as well as "encounter" killings staged by the police. Despite significantly enhanced cooperation with civilian authorities under the guidance of the new National Police Chief, it remained difficult to quantify the exact number of police killings, because police infrequently documented citizen killings in accordance with minimum investigation or crime scene standards, and mid-level officers sometimes failed to cooperate in investigations ordered by civilian authorities (see Section 1.e.).

Human rights organizations stated that the police employed far less unwarranted deadly force against criminal suspects than in previous years, although uniformed vigilantism persisted on a less-than-deadly level. Criminals who refused to pay police "commissions" or bribes to ignore criminal activity were sometimes beaten or shot in an appendage rather than killed. Lack of basic education, poor training, and weak discipline were still endemic among members of the police force, and directly contributed to the killings that occurred. These problems were aggravated by low pay and the fact that there was no coherent policy on the use of deadly force or rules of engagement by the police. Additionally, the lack of professional and transparent investigation of the circumstances in which police killed citizens in "exchanges of gunfire" still led to occasional impunity for such killings. Finally, there was a lack of meaningful training in human rights as applied to police work; however, under the leadership of the new police chief, the National Police took steps to address this problem. For example, in August a 4-day program trained 15 members of the National Police and 15 prominent members of civil society, who were to conduct human rights and dignity workshops for members of the National Police.

In the majority of police killings, the police claimed that the deaths resulted from an exchange of gunfire in the course of an arrest. Police asserted that the deaths of so-called delinquents resulted from shoot-outs requiring the police to act in self-defense. A number of eyewitness accounts matched police assertions; others did not. Staged "encounter" killings still occurred.

In March armed forces Private Eduardo Ortiz Delgadillo (then assigned to the Metropolitan Transit Authority, headed by former National Police Chief Candelier) shot and killed bus driver Flabio Minaya Padilla, whose death sparked violent protests and condemnation by a transport union. The authorities charged Ortiz, and his trial was pending at year's end in a civilian court.

In April police officer Carlos Manuel Ramirez Herrera shot and killed 19-year-old Juan Rafael De los Santos during a protest that took place in the Moscu neighborhood of San Cristobal. Following the shooting, residents attempted to burn the residence of and lynch a municipal official, Jose Mercedes Corporan, whom they blamed for instigating the death of De los Santos. Police Chief Marte designated a commission to investigate the death of De los Santos and events surrounding the demonstrations. The commission determined that Ramirez should be removed from the police force; he was fired and was awaiting trial at year's end.

On May 16, members of the armed forces election-day police in Jarabacoa shot and killed two Partido Reformista Social Cristiano (PRSC) activists in a shoot-out in front of approximately 50 witnesses. On August 6, Attorney General Bello Rosa concluded an investigation into the killings and recommended that those responsible be submitted to civilian justice. Several days later, President Mejia ordered that 11 members of the military implicated in the crime be prosecuted in civilian criminal court, based on a recent Supreme Court precedent limiting military tribunals' authority to decide such cases to wartime. The authorities accused Army Sergeant Edruy Reyes Ramirez of committing the murders and charged Second Lieutenant Roger Antonio Acevedo Martinez with being an accomplice. The Attorney General further recommended that two colonels, Santo Augusto Nunez Francisco and Pedro Antonio Caceres Chestaro, be charged with trying to cover up the crime and mislead investigators. At year's end, the case was still in the investigative phase.

Also in May, police Lieutenant Juan Bautista Berroa and two police officers in Bonao killed 22-year-old Alejandro Pena Diaz, whom they had taken prisoner, in the back of a truck. The police officers then threw his body from the vehicle in a staged escape attempt. The authorities dishonorably discharged the two police officers responsible for the killing, arrested them, and held them to face civilian trial, set for January 2003.

In several neighborhoods in Santo Domingo, civil society held protests against police violence. The police at times forcibly dispersed demonstrators using tear gas and weapons; on August 22, during a protest in the Capotillo section of Santo Domingo, Alberto Santos Veloz was killed by a stray bullet and 14 persons were injured (see Sections 2.b. and 6.b.).

In September a police captain, police Lieutenant Charlie Rodriguez, a sergeant, and a corporal all confessed to being part of a gang that kidnaped and killed Victor Augusto (Franklin) Feliz Mendez. The police also held 19-year-old Priscilla Diaz Infante in custody; she was the last surviving civilian member of the group of seven that police accused of murdering Feliz Mendez. The other civilians involved in the case, Luciano Antonio Matos Diaz and Deiva Giner Castillo, died under questionable circumstances shortly after Feliz Mendez's murder; one in an exchange of gunfire with police, the other by suicide. At year's end, a commission ruled that the civilian killed by police died in a legitimate exchange of gunfire while attempting to evade arrest.

A significant number of deaths occurred in custody due to negligence by prison authorities (see Section 1.c.).

According to nongovernmental organizations (NGOs) active along the border, two Haitian migrants were killed by military personnel while attempting to enter the country (see Section 2.d.).

In the May 2001 killing of 26-year-old Ruben Dario Paniagua in the Capotillo neighborhood, the civilian trial of four persons alleged to have been involved in the killing was scheduled for February 2003. Bienvenido Cross, a civilian with police ties, police officer Franklin Tejada, police officer Carlos Feliz Mateo, and armed forces member Warren Antonio Matos, were in jail awaiting trial; the authorities released the other persons detained in connection with this case.

In the June 2001 killing of 37-year-old Carmelo del Rosario, the authorities removed police Lieutenant Pedro Encarnacion Baez from duty and sent the case to the civilian courts. Although jailed in Higüey, Encarnacion Baez failed to appear at several hearings, the most recent of which was on September 26.

In the July 2001 police killing of Wendy Altagracia Gatón Tejada in the Herrera district, the authorities jailed police officer Demetrio Marte Leonardo and scheduled him to be tried in civilian criminal court in February 2003. The authorities sent three other officers charged in this killing to a military court in 2001; there was no public information regarding the status of their cases.

In the case of police Private Francisco Reyes Santana, known as "Tyson," who was accused of killing 18-year-old Pedro Manuel Contreras in September 2001, the Supreme Court ruled in December 2001 that Tyson and codefendant police Sergeant Medina Medina would be tried in civilian criminal court. At year's end, both were in custody awaiting trial, but no trial date had been set.

There were no developments in the cases of the police officers involved in the killing of Johnny Perdomo Santo in November 2000, Emilio Jose Matias and Lauri Mendez Sena in September 2000, the 30-year-old Haitian killed in August 2000, the six Haitians and one Dominican shot in July 2000, the killing of Juan Expedito Garcia in July 2000, the killing of Juan Jose Urena in July 2000, or the killing of Antonio Lora Fernandez in April 2000.

According to human rights groups, in the 2000 case involving three individuals shot in Najayo Prison in San Cristobal, the officers involved never were tried in either a police tribunal or a civilian court.

There were no developments in the appeal of the 30-year sentences of retired General Joaquin Pou Castro, former air force officer Mariano Cabrera Duran, and Luis Emilio de la Rosa Beras, convicted in 2000 for the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration. A fourth defendant, General Salvador Lluberres Montas, was to stand trial in 2001, but the trial did not take place. Lluberres Montas failed to appear at 11 hearings in 2001 and at 3 additional hearings during the year. Although Lluberres Montas was allegedly near death due to illness, various human rights groups charged that he was living comfortably in his villa in Casa de Campo.

b. Disappearance

There were no reports of politically motivated disappearances; however, the Dominican Solidarity Center reported that since the 1999 privatization of the sugarcane industry, more than 150 union organizers or members had disappeared (see Section 6.e.).

An instruction judge ordered that former Secretary of the Armed Forces Constantino Matos Villanueva be tried in a criminal court in the case of Narciso Gonzalez, a university professor and critic of the Balaguer Government who disappeared in May 1994. The judge excluded two others, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although in October 2001 the victim's family appealed this decision; that appeal and Matos Villanueva's contest of the decision to try him in criminal court remained pending in Santo Domingo's Court of Appeal at year's end. There was no action during the year on the family's complaint to the Inter-American Commission on Human Rights (IACHR).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit torture and other forms of physical abuse, and for the first time in years senior police officials took this prohibition seriously and regularly investigated reports of torture and abuse; however, some security forces personnel, primarily mid-level and lower ranking police officers, continued to torture, beat, and otherwise physically abuse detainees and prisoners. Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbated the problem of physical abuse. Human rights groups and the local press reported repeated instances of physical abuse of detainees while in custody, including various forms of torture, beatings, and sexual abuse.

According to human rights organizations, the National Police, the DNCD, and prison officials all used forms of torture. The method most often used was beating. Other forms included asphyxiation with plastic bags to elicit confessions, and a method called "roasting the chicken" in which the victim was placed over hot coals and turned. Human rights advocates described another form of abuse that guards reportedly used against prisoners called "the toaster," where prisoners were laid, shackled hand and foot, on a bed of hot asphalt for the entire day and beaten with a club if they screamed. Police also were described as using a practice called "golpe de pollo" in which they beat a person's ears until they bled. The Dominican Committee for Human Rights stated that in the Fortaleza San Felipe prison in Puerto Plata, some prisoners were tortured by pulling off their finger nails, and another prisoner at San Felipe was hung from the cell wall for days by chains that bound his wrists and left scars. Another "new" torture method was reported in June, in which prison officials enclosed detainees in water cisterns for lengthy periods. In Azua, according to the Dominican Human Rights Commission, a youth named Robelin Lopez was branded in the

buttocks with a hot iron in an attempt to elicit a confession.

Homosexual and transvestite detainees reported to gay rights advocates that during detention the police held them in a darkened room and gave them the alternative of performing fellatio on guards or being placed in a locked cell with the most dangerous prisoners, where the detainees presumed that they would be raped, beaten, or both. Other informants confirmed that the police used the prospect of being locked in with the most dangerous prisoners as a threat.

In June two of three youths detained for allegedly carving up victims in satanic rites, Jairo Luis Matos and Gustavo Tejada de la Rosa, accused police authorities of torturing them in an attempt to elicit confessions. Police in the Fugitive Search and Capture Unit, located in the Parque Mirador Norte area of Santo Domingo, asphyxiated the young men with black plastic bags and beat them in an attempt to obtain confessions. This unit previously had been implicated in acts of torture aimed at eliciting confessions. In April the president of the Dominican Human Rights Commission reported that the Commission received multiple complaints of torture regarding this police unit.

Also in June, the authorities suspended from duty two National Police captains from the Robbery and Monetary Crimes unit after they were accused of torturing 21-year-old Carlos Javier Mendez to draw out a confession for his alleged participation in a robbery. A special investigative commission composed of members of the police and justice sector determined that captains Ramon Antonio Marte Reyes and Luis F. Sanchez Mejia should be tried in civilian court for violating law 309 by committing acts of torture. The two captains were fired and at year's end were released on bail awaiting trial. In addition, the authorities suspended Assistant District Attorney Diomaris Cepeda Diaz for 2 weeks without pay for negligence.

In October judicial authorities decided that the case against suspended police Colonel Francisco Beras Santos, who was charged with the torture and sexual violation of a woman, should be heard in criminal court. The colonel was accused of having forced 34-year-old Elizabeth Martinez Perez to have oral sex with him before he would allow her to go free. Police Chief Marte sent the evidence against the colonel to be presented in a civilian court, rather than a military tribunal. Beras appealed his case in three courts, but each court rendered the decision that there was sufficient evidence to incriminate him. At year's end, he was in prison awaiting the conclusion of his criminal trial.

The National District Prosecutor's office program of placing lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to ensure that detainees' rights were respected (see Section 1.d.) remained largely limited to the Santo Domingo metropolitan area, with a lesser presence in Santiago. There was some evidence that assistant prosecutors at times acquiesced in traditional police practices—as in the torture case of Carlos Javier Mendez—rather than attempt to raise these practices to constitutional standards. Less qualified prosecutors assigned to the rest of the country did not assume strong roles in managing criminal investigations and ensuring the rights of suspects.

Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. A 1997 law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. However, until recently, these provisions were not known fully or applied by prosecutors and judges. There were repeated calls by human rights groups for civilian trials of officials charged with abuse and torture, and senior executive branch officials responded favorably during the year. New abuse and torture cases were remanded to civilian criminal courts as they arose. However, submission to civilian judicial authority was sometimes still contested by mid-level officers (see Section 1.e.).

During the year, the authorities dismissed numerous government employees for links with smuggling groups (see Section 6.f.). In one instance, Dominican Consul in Cap Haitien, Guillermo Radhames Garcia, was removed from his post after the Directorate of Migration accused him of personally transporting 16 Chinese nationals over the Dajabon border into the country. Even though the Supreme Court recognized that there was sufficient evidence to incriminate Garcia, it later dropped the case against him at the request of the Attorney General, because Garcia had been sworn in as the La Vega representative to the Chamber of Deputies while confined in Dajabon. The Court said it was the Chamber of Deputies' responsibility to censure Garcia.

Police officers also were fired for violent attacks, extortion, and drug use. Significant problems remained because the authorities had not undertaken serious efforts to vet police recruits. Many persons with prior criminal records reportedly were incorporated into police ranks, either using false names or identification or with recommendations from other state institutions, such as the army.

Human rights courses were offered in the training curriculums for military and DNCD enlisted personnel and officers. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. However, monitoring and sanctioning systems for abuses of human rights remained ineffective.

The three officers accused of being involved in 2000 of torture and abuse of at least nine minors in the National District were not tried by police tribunals or the civilian courts. An investigative judge in the Eighth Penal Court, who was assigned to investigate the case in the civilian courts, ruled that these courts did not have jurisdiction over a police matter. The police tribunal took no action.

In August 2000, judges of the Appeals Court for Children and Adolescents in San Pedro de Macoris made public a set of

allegations of similar abuses committed against 19 minors in police stations in Juan Dolio and Boca Chica, as well as in the General Pedro Santana public jail, which is controlled by the army. During the year, there was no investigation into these alleged abuses by the police or the military.

Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of control of the authorities. The General Directorate of Prisons was under the authority of the Public Ministry and was seriously underfunded. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Prisoners and human rights groups alleged that prisoners were not taken to their trials if they failed to pay bribes to the guards (see Sections 1.d. and 1.e.). Medical care in all prisons suffered from a lack of supplies and available physicians. Prisoners immobilized by and dying of AIDS were not transferred to a hospital, but some terminal-stage inmates were released to spend their last days at home. Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

According to the Attorney General's office, the police and the military held almost 17,000 prisoners and detainees in 34 prisons with a total capacity of approximately 9,000 persons. As of December, the military controlled 21 prisons with a total of 5,618 prisoners, and the National Police controlled 13 prisons, with a total of 10,922 inmates. A warden was responsible for running each prison and reported to the Attorney General through the Directorate of Prisons. A police or military colonel (or lieutenant colonel), who only was appointed for 3 to 6 months, reported to the warden and was responsible for providing security. However, in practice the colonel was in charge of the prison, and neither the Directorate of Prisons nor the individual wardens had much power. Some prisons were totally out of the authorities' control and were in effect operated by armed inmates, who decided whether an individual got food, space to sleep, or medical care. Individual inmates only could secure a tolerable level of existence by paying for it.

The overwhelming majority of prisons experienced extreme overcrowding. San Cristobal Najayo jail was originally built to house 700 inmates and contained close to 3,000. The overcrowding and deteriorating conditions at such prisons as Publica de Azua (administered by the military) posed a serious threat to the health and safety of the inmates. The prison, which was initially built in the 1940s to hold 40 inmates, held 171 prisoners. Inmates suffered from various illnesses including tuberculosis, bronchitis, and skin infections. Inmates who could not afford to pay for beds were forced to sleep on the floor. During September more than 25 prisoners died at the military-run prison of La Inmaculada Concepcion in La Vega in a fire allegedly set to prevent an inspection by guards. Newspapers and human rights groups reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors.

A government food program for the general public was used to provide lunches at some prisons. The former Director of Prisons reported that his office had a budget of \$0.50 (8 pesos) per inmate to provide three meals per day. Inmates said that the food provided was unacceptable, and most sought to beg or purchase food from persons in the vicinity of the prison or from family members. Due to inefficiency and corruption within the prison system, visitors often had to bribe prison guards in order to visit prisoners. Female visitors often were forced to strip naked prior to entering the prison and were harassed sexually by prison guards.

Female inmates were separated from male inmates. In general, conditions in the female prison wings were better than those found in male prison wings. There were some reports of guards physically and sexually abusing female inmates. There were also reports that in the Najayo prison, guards forced women to act as prostitutes in exchange for food and protection. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who delivered while incarcerated were permitted to keep their babies with them for 1 year.

The law requires that juveniles be detained separately from adults; however, in practice juveniles often were mixed with the general population. The authorities sometimes treated minors as adults—most often when physical examinations indicated that the persons claiming to be minors were probably adults—and incarcerated them in prison rather than juvenile detention centers. The press reported a high incidence of juveniles detained with adult prisoners being forced into sexual servitude in return for protection. Human rights groups charged that nearly all of the 280 juveniles in Najayo prison who were housed with adults were abused sexually. In July 2001, a new prison for minors opened in Najayo, with a capacity of 200 persons; however, human rights groups charged that guards and prison staff continued to abuse minors in the new wing.

The Government permitted prison visits by independent human rights observers and by the press.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention were problems. The Constitution provides for the security of the individual against imprisonment without legal process, bars detention beyond 48 hours without the detainee being presented before judicial authorities, and prohibits custodial authorities from not presenting detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. However, the security forces continued to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The police typically detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merit release, and whom they should continue to hold. When the prosecutor's office began placing its lawyers in police stations in 1997, the police began to curtail the practice of arbitrary detentions; however, during the year, few new prosecutors were sent and the effectiveness of those working in police stations was negligible (see Section 1.c.).

Detainees at police headquarters in Santo Domingo, known as "the palace," reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana police station commonly were held for 8 to 14 days, well beyond the 24-hour limit for minors. The official in charge of the Department for Minors attributed this to delays by the Juvenile Defender—the Public Ministry official in charge of interrogating minors—in sending them before a Juvenile Court judge. The law prohibits interrogation of juveniles by the police or in the presence of police.

The police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals arbitrarily, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property including motorcycles, other vehicles, and weapons. The armed forces carried out similar sweeps, in which they closed down major routes into Santo Domingo, searched cars for weapons and drugs, and detained individuals thought to be criminals. In June security forces arrested more than 700 residents of the Santiago area during operations "Centella" and "Guaragua." Numerous firearms were confiscated; 44 motorcycles and 18 cars were impounded.

Following the indiscriminate arrests, the police regularly detained individuals for 20 days or more while they looked for a reason to charge them. Human rights organizations reported that individuals detained in these roundups frequently were beaten. The police stated that they relied upon unlawful detention without presentation to a court because some cases involved more complicated investigations. However, there was a clear pattern of police arrests of individuals before undertaking adequate investigation, and reliance on confessions obtained under questionable circumstances to make their case (see Section 1.c.).

A related problem was the police practice of arresting and detaining individuals solely because of a familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse were all vulnerable to this practice, the goal of which was to compel an at-large suspect to surrender or to coerce a confession from one already arrested.

In December the military briefly jailed a Dajabon area radio broadcaster, reportedly arresting him without written authorization from the correct judicial authorities (see Section 2.a.).

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them (see Section 5).

Many suspects endured long pretrial detention. About 82 percent of the national prison population was awaiting trial; of these, about three-quarters were "prisoners without sentences," and the remainder had convictions under appeal. The average pretrial detention throughout the country was well over 6 months. Time already served counted toward a sentence.

The failure of prison authorities to produce the accused for court hearings was slightly less pronounced during the year but still caused a significant percentage of trial postponements (see Section 1.e.). Prisoners often had their court dates postponed because they were not taken from the prison to court, or because their lawyer or witness did not appear. The authorities held some prisoners even though there were no formal charges against them.

Due to the historical inefficiency of the courts (see Section 1.e.), the granting of bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. As a rule, few defendants were granted bail. Large numbers of prisoners, who had served at least half their sentences, were pardoned each August 16 and at year's end.

Most detainees and prisoners could not afford adequate defense services. The program of the Commissioner for the Reform and Modernization of Justice, which had lawyers to defend people for free, ceased operation due to lack of funds. On May 31, the Supreme Court created a National Office of Judicial Defense to provide legal advice and representation to poor people being processed in courts. This program was supported by foreign donors, and as of August 26, eight lawyers were chosen for the National Judicial Defense Program.

The judicial system sometimes failed to protect the status of minors in criminal cases (see Sections 1.c. and 5).

The law prohibits forced exile, and there were no reports of its use. However, persons who asserted that they were citizens sometimes were expelled to Haiti (see Section 2.d.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, attempts by public and private entities, including the executive branch, to undermine judicial independence persisted. Civil society groups encouraged judicial independence. The judiciary received training funded by foreign donors in order to improve its ability to resist outside interference, but such influence remained a problem. Court officials also began to implement new selection criteria for judges.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are also specialized courts that handle administrative, labor, land, and juvenile matters. Under the 1994 constitutional amendments, the Supreme Court is responsible for naming all lower court judges in accordance with a judicial career law. The Supreme Court has been complete since 2001, when the National Council of Magistrates (CNM) met to fill three vacancies. The

Government has established 17 of the 25 courts provided for by law, including 5 courts for children and adolescents.

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces. These tribunals, while functioning similarly to criminal courts, had judges and prosecutors who were military or police officers, and the results generally were not made public. Decisions could be appealed, including to the Supreme Court. Although police tribunals could remand accused officers to civilian court jurisdiction, this almost never occurred under the leadership of police chiefs prior to Chief Marte. Military courts tried military personnel charged with killings, but depending upon the severity of the offense, a panel of senior officers could send the case to the civilian courts. When a police officer was involved in a questionable incident, the case went to a police commission of superior officers for investigation. If it was determined that the police officer exceeded his authority, the case was sent to the police tribunals or possibly to the civilian courts, depending on the severity of the offense. In the security force killings committed during the year, numerous officers were remanded to civilian criminal courts (see Section 1.a.).

In 2000 six civil society groups made a submission to the Supreme Court on the issue of the legality of Law 285, which encompasses the Code of Police Justice. Civil society groups argued that police tribunals violated the Constitution, and that they weakened the separation and independence of governmental functions, as well as the exclusivity of the judicial function in the administration of justice. The lawsuit asked the court to rule on the constitutionality of these tribunals; a judgment still was pending as the court awaited passage of police reform legislation at year's end. However, in one case, in December 2001, the Supreme Court set what the Attorney General termed a precedent by ruling that in peacetime, certain criminal offenses involving security forces should be tried in civilian courts (see Section 1.a.).

Public pressure existed for military or police boards to remand cases involving serious crimes to civilian court jurisdiction, and multiple such cases were remanded during the year. In other cases, civil authorities requested that the police turn over their files so that cases of suspected extrajudicial killings might be evaluated independently for possible prosecution. Although mid-ranking officers were sometimes uncooperative, there was significant high-level cooperation from the National Police and military in requested investigations during the year (see Section 1.c.).

The judicial system is based primarily on the Napoleonic Code. Judges, rather than juries, render all verdicts. Following the commission of a crime, the criminal process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution provides for the right not to be arrested without judicial warrant except in cases where the suspect is caught in the act; the right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

The most serious and common violation of these rights occurred when police detained suspects, sometimes for many days, without allowing them to call family members, while subjecting them to frequent questioning (see Section 1.d.). Although accused persons were entitled to have an attorney present, they often were not permitted to call one or, if one arrived, the attorney was not permitted to be present during the questioning. Torture frequently was used to coerce a confession during questioning (see Section 1.c.). Under these circumstances, suspects may confess to acts that they did not commit merely to get relief from the intense questioning and the detention. The results of these interrogations frequently formed the only evidence presented at the trial.

The law provides for the remedy of "amparo," an action any citizen may bring for violation of a constitutional right, including violations by judicial officials, in accordance with the terms of the American Convention on Human Rights. The process of dispute resolution, including reconciliation, mediation, and arbitration, continued to be used as an alternative to trial and incarceration.

A large backlog of criminal cases remained in the National District and throughout the country. The Supreme Court's plans to unclog the court dockets were frustrated by the Government's failure to allocate sufficient funds. Dockets were crowded with traffic infractions that should have been heard in the traffic courts provided for by statute; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting prisoners to court. Many cases were rescheduled when the accused or key witnesses did not appear.

During the year, the Government adopted a new criminal code intended to simplify court procedures, accelerate the justice system, and discontinue the practice of holding a person in jail while trial procedures were underway. The new code supports the presumption of innocence until proven guilty. President Mejia established a commission to handle the preparations necessary to implement the new criminal code by 2004.

During the year, the Supreme Court also began a pilot program to bring the courts to the jails to expedite the processing of inmates, since transporting inmates to the courts was one of the biggest obstacles to the administration of justice. Of the more than 16,500 inmates in custody, only 15 to 30 percent had been sentenced. The program, which should help relieve prison congestion, began at San Cristobal Najayo jail in August and was to expand to La Victoria prison, the largest jail in the country, followed by Monte Plata.

While in 2000 the congestion in the criminal system was reduced by more than 50 percent through use of community conciliation centers, those gains largely were lost during the last 2 years. It was clear that the change of 90 percent of Public Ministry officials by the Mejia administration in August 2000 resulted in a marked deterioration of the technical competence and

ethical standards of prosecutors around the country. The practical effect has been a decrease in the ability to combat impunity and a deterioration in the quality of justice available to the poor.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution contains provisions against arbitrary entrance into one's home; however, police sometimes broke into private quarters without cause to search for suspects, and the authorities infringed on citizens' privacy rights in other ways as well. Although the Government denied arbitrary use of wiretapping or other surreptitious methods to interfere with the private lives of persons or families, it had not taken steps to dismantle an active private wiretapping industry. In September the Dominican Human Rights Commission reported that police captured Priscilla Diaz Infante, allegedly involved in the Feliz Mendez murder, by tapping the Commission's telephones (see Section 1.c.).

The law permits the arrest of a suspect caught in the act of committing a crime, and police may enter a residence or business while in hot pursuit of such suspects. Otherwise, judges must authorize arrests and issue search warrants. However, the police continued to violate these requirements. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods, including Capotillo, Gualay, Guandules, Guachupita, Los Alcarrazos, and La Zurza; police allegedly went into homes without search warrants to look for delinquents.

According to the Dominican Human Rights Committee, the police on several occasions used force to remove squatters from state-owned lands in and near Santo Domingo.

The police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess (see Section 1.d.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Newspapers and magazines freely presented a diversity of opinion and criticism; there were eight daily and seven weekly newspapers and three weekly magazines. However, journalists and editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

Numerous privately owned radio and television stations broadcast all political points of view. The Government controlled one television station.

In December the military briefly jailed a Dajabon area radio broadcaster, who implicated the President's son in the illicit sale of agricultural products on a program discussing the cross-border contraband trade. The *Listin Diario* newspaper reported that the executive branch replaced the local District Attorney, Maria de los Santos Tejada, after she demanded that the military free the journalist, who had been arrested in the evening, without written authorization from the correct judicial authorities. The Government planned to proceed with a libel and defamation suit. The arrest and firing created waves of protest in various sectors, and local religious and civil society groups staged peaceful protest marches in Dajabon.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, there were some exceptions, and the Government at times restricted this right. Outdoor public marches and meetings require permits, which the Government usually granted; however, the police used force to break up demonstrations on several occasions throughout the year, which sometimes resulted in deaths and injuries. The Government used deadly force to disperse demonstrators calling for completion of public works projects, the provision of potable water, and the cessation of blackouts (see Section 1.a.).

In March the police killing of a bus driver caused violent protests (see Section 1.a.). Metropolitan transit police intercepted a 40-minibus protest parade in the Villa Juana area, leading to 35 arrests and various injuries. The authorities eventually released those arrested.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Political parties frequently affiliated with their foreign counterpart organizations. Professional organizations of lawyers, doctors, teachers, and others functioned freely and maintained relationships with counterpart organizations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church, which signed a concordat with the Government in 1954, enjoyed special privileges not extended to other religions. These included the use of public funds to underwrite some church expenses, such as rehabilitation of church facilities, and a complete waiver of customs duties when importing goods into the country.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence, or police regulations for immigration and health reasons, and the Government generally respected these provisions in practice; however, there were some exceptions. Citizens faced no unusual legal restrictions on travel within or outside the country. The police occasionally blocked roads to search cars for weapons and drugs (see Section 1.d.). Local and international human rights groups cited discrimination against Haitian migrants, whom they said were subject to arbitrary and unilateral action by the authorities, and the military reportedly killed some migrants attempting to enter the country (see Section 1.a.).

Haitians continued to migrate in great numbers to the Dominican Republic, some legally but the vast majority without legal documents, in search of economic opportunity. Some illegal migration was assisted by the authorities, who profited from it. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. The Directorate of Migration reported that it repatriated over 12,000 Haitians during the year. In some cases, the Government denied those deported the opportunity to demonstrate that they were legal residents in the country or to make arrangements for their families or property.

The Haitian Embassy began a pilot program to issue identity documents to Haitian adults residing in the country, and it issued over 30,000 such documents during the year. Most Haitians, including those making clandestine crossings of the border, did not have identification papers of any kind. The lack of identification made it difficult for the authorities to provide social services, such as education, to Haitian children.

NGOs and Catholic priests familiar with the process have protested that children born of Haitian parents in the Dominican Republic, generally denied registration as citizens, frequently were among those deported as illegal Haitians (see Section 5).

In December a judge ordered the Central Electoral Board (responsible for registering births and providing national identification cards) to grant Dominican nationality to two sons of illegal Haitian immigrants on the grounds that the children were born on Dominican soil. This ruling generated controversy, and some members of Congress asked the Supreme Court to overturn the lower court decision, based on the fact that the parents were "in transit," and therefore the children could not acquire Dominican nationality. For years, the term "in transit" had been interpreted to include anyone not legally residing in the country, which included the vast majority of Haitians, regardless of the years they had spent in the country. The Supreme Court refused to hear an appeal, and many prominent figures publicly spoke out in favor of the lower court ruling.

In 2000 the Inter-American Court of Human Rights heard a case presented by human rights organizations, alleging that massive expulsions, repatriations, and deportations of Haitians and Dominican-Haitians by the Government violated international human rights law. The Court's decision requested that the Government provide more detailed information about the condition of individuals in the border shantytowns who potentially were subject to forced expulsions and asked for a report every 2 months on provisional measures adopted to comply with the Court's decision. The Government provided the Court with the bimonthly reports and expected the Court to send the issue again to the IACHR.

NGO representatives working in rural areas reported that decisions to deport often were made by lower-ranking members of the security forces, sometimes based upon the racial characteristics of the deportees. Such officials approached persons who looked like Haitians, including persons who had very dark complexions and fairly poor clothing, and engaged them in conversation, mainly to check their use of Spanish and any accent they might have. If such persons spoke Spanish poorly or with a noticeable accent, they were sometimes detained and deported.

While the Government had a policy of strictly enforcing documentary requirements and repatriation for those found lacking documents, it appeared to have a more tolerant unofficial policy fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. Thus, after being stopped as a suspected illegal Haitian migrant, an individual could be allowed to remain in the country despite lack of documentation if the story about work satisfied the official. NGOs reported corruption among the military, migration authorities, and other border officials and noted that these government representatives sometimes allowed the transit of Haitian workers into the country.

In September a Belgian priest, Pedro Ruquoy, stated that members of the army, migration officers, and privatized sugar mills were all complicit in smuggling field hands from Haiti. The priest said that in a visit to Puerto Escondido, near the frontier, he visited installations used to lodge Haitians temporarily prior to their transfer to the sugar mills. The priest estimated that 30,000 undocumented Haitians had been smuggled through this center and said that those recruiting the Haitians received about \$8 (150 pesos) a person (see Section 6.f.). Haitians recruited for the sugar mills usually worked for only one harvest but remained in the country, securing better-paying jobs in construction.

The Government did not actively cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government asserted that it provided first asylum and resettlement. According to a 1984 presidential decree, an applicant for refugee status must be referred to the Technical Subcommittee of the National Commission for Refugees by the National Office of Refugee Affairs in the Migration Directorate. The subcommittee, which makes a recommendation to the commission (both chaired by the Foreign Ministry), is made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, which makes a final decision on the application, consists of the three members of the subcommittee; the legal advisor to the President; and members from the National Police, the Ministry of Labor, and the Attorney General's office.

As of December, more than 100 applications for refugee status had been filed with the Office of Refugees in the Migration Directorate, nearly all by Haitians. In 2001 the National Commission for Refugees met for the first time since 1993. The National Commission reviewed over 65 cases but did not make any decisions on pending refugee cases at that time and has not met since. However, the Technical Subcommittee met several times during the year, referring dozens of cases back to the Migration Directorate for technicalities such as lack of properly documented claimant signatures or identities.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections. Citizens exercised this right in generally free and fair congressional elections in May.

The President and all members of the Senate and the Chamber of Deputies are elected freely every 4 years by secret ballot. There is universal adult suffrage; however, active duty police and military personnel may not vote. Voting is restricted to those who can document nationality. The Central Electoral Board conducts all elections. During the year, the legislature adopted constitutional reforms affecting the electoral system, including a provision that the President may be reelected one time. The reforms abolished a system whereby voters were locked into the polling site until all voting had concluded, and women and men no longer have to vote at separate times.

Congress provided an open forum for the free exchange of views and debate. The main opposition party was the PLD, which held 1 of 32 seats in the upper house and 42 of 150 seats in the lower house. A third major party, the PRSC of former President Balaguer, held 2 seats in the upper house and 36 seats in the lower house; various smaller parties were certified to contest provincial and national elections.

The nation had a functioning multiparty system. Opposition groups of the left, right, and center operated openly. The President often dominated public policy formulation and implementation. He could exercise his authority through the use of the veto, discretion to act by decree, and influence as the leader of his party. Traditionally, the President has predominant power in the Government, effectively making many important decisions by decree. The President appoints the governors of the 32 provinces.

Women and minorities confronted no serious legal impediments to political participation. By law parties must reserve 33 percent of positions for women on their lists of candidates for city councils; however, the parties often placed women so low on the lists as to make their election difficult or impossible. A woman, Milagros Ortiz-Bosch, was Vice President. Two women served in the 32-member Senate; women held 24 seats in the 150-member Chamber of Deputies. Women continued to be represented in appointed positions, albeit to a limited degree. The President of the Chamber of Deputies was a woman, as were three cabinet secretaries. Women filled 5 of the 16 seats on the Supreme Court.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Nongovernmental human rights organizations generally operated freely without government interference, and government officials were somewhat cooperative and responsive to their views. In addition to the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (addressing the Narciso Gonzalez case), several Haitian, church, women's, and labor groups existed.

In February 2001, Congress passed a law creating a human rights ombudsman's office, although selection of the individual to fill the position still remained pending at year's end. The law provides that the Ombudsman is appointed for 6 years, with authority over public sector issues involving human rights, the environment, women's issues, youth issues, and consumer protection.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits discrimination based on race and sex; however, such discrimination existed, and the Government seldom acknowledged its existence or made efforts to combat it.

Women

Domestic violence was widespread. NGOs estimated that 40 percent of women and children were victims of domestic violence. Under the 1997 Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and carry fines ranging from \$30 to \$6,000 (500 to 100,000 pesos). The Secretariat of Women, as well as various NGOs, had outreach programs on domestic violence and legal rights. The Government's center in Villa Juana (Santo Domingo) for the legal support and forensic examination of abused women handled over 100 cases per day. Due to the success of this first center, the Government opened a second center and planned four more. There were no functioning shelters for battered women.

The Department of Children, Teenagers, and Family of the Attorney General's Office issued 2,600 protection orders in favor of women during the first 6 months of the year, of which 25 percent were for spouses of military personnel or policemen involved in domestic violence. According to government statistics, 107 women were killed in "crimes of passion" during the year.

Rape was a serious problem and was believed to be widely underreported. The Santo Domingo District Attorney's office received 1,706 rape or sexual violation complaints during the year. The penalties for committing rape are 10 to 15 years in prison and a fine of \$6,000 to \$12,000 (100,000 to 200,000 pesos). The State can prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

The law prohibits sexual harassment in the workplace; however, the law was not enforced, and sexual harassment was widespread.

Prostitution is illegal; however, the Government usually did not enforce prostitution laws. Sex tourism was a growing industry throughout the country as the number of international visitors increased. NGOs conducted HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, hotel and industrial zone workers, and other high-risk groups. The Domestic Violence Law prohibits acting as an intermediary in a transaction of prostitution, and the Government used the law to prosecute third parties that derived profit from prostitution.

Divorce was easily obtainable by either spouse, and women could hold property in their own names apart from their husbands. Traditionally, women did not share equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances, women were paid less than men in jobs of equal content and equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates reported that pregnant women often were not hired.

Children

Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carried the principal burden for such services. The Oversight Organization for the Protection of Children, created by the executive branch, was the primary government institution responsible for child welfare. It carried out community information campaigns on children's rights, including the prevention of child abuse, child labor, and family violence. It also provided training to persons and groups providing social services to children, judicial officials, and other children's advocates. Private institutions received 35 to 40 percent of the budget of the Oversight Organization. The Ministry of Youth operated programs on drug prevention and HIV/AIDS awareness.

The 1994 Minor's Code requires 8 years of formal education. Children of Haitian descent experienced difficulties attending school due to their lack of official status. The code contains provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. It also provides for removal of a mistreated child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse received increasing public attention.

In the National District, the Department of Family and Children, in the Office of the Prosecutor, administered the Minor's Code and arranged conciliation of family conflicts, the execution of court decisions with respect to child protection, and interviews with children whose rights had been violated.

Abuse, including physical, sexual, and psychological, was the most serious human rights violation affecting children. The Department of Family and Children estimated that 50 percent of the children in the country were victims of some sort of abuse, although few such cases reached the courts. In the majority of the cases, the accused was a person close to the child: A father, grandfather, uncle, brother, cousin, or close family friend. The criminal law provision on sexual abuse and intrafamily violence

provides for a penalty of 10 to 20 years' incarceration and a fine of \$6,600 to \$13,200 (108,000 to 216,000 pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

The Ministry of Health estimated that between January and June, there were 894 births by adolescents under age 15 and 15,560 births by adolescents between the ages of 15 and 19, some of which reportedly resulted from rape or incest.

Trafficking and sexual exploitation of children was a serious problem (see Section 6.f.). Poor adolescent girls and boys sometimes were enticed into performing sexual acts by the promise of food or clothing; sometimes they were forced into unsafe relationships with strangers by the need for money. Once involved, they could be held against their will by individuals who sold their sexual favors to others. Some of these minors were lured from their parental homes; others were already on the street.

The judicial system sometimes failed to protect the status of minors in criminal cases (see Sections 1.c. and 1.e.). In accord with the Minor's Code, the Government established 17 courts of first instance for minors and 5 appeals courts for minors, the latter in Santo Domingo, Santiago, San Pedro, San Cristobal, and La Vega. Although these juvenile courts were organized with a focus on rehabilitating offenders, very few social services were available for minors. In practice, juveniles were detained in excess of the time permitted by law and often sent to jail rather than referred for rehabilitative services. There were legal advocates especially for juveniles in Santo Domingo and La Vega to provide them with representation in delinquency cases. Human rights monitors reported numerous cases of sexual abuse of minors in Najayo prison (see Section 1.c.).

Child labor was a serious problem in the informal sector of the economy (see Section 6.d.). It was common for minors to be put on the street to fend for themselves as younger siblings claimed the parent's meager resources. Homeless children called "palomas" (doves) were frequently at the mercy of adults who collected them and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they were given basic housing. The ages at which these children worked, the hours they worked, and their failure to comply with compulsory school attendance all violated the law, but the Government has not been able to combat this practice.

Persons with Disabilities

Persons with disabilities encountered discrimination in employment and in the provision of other services. The law provides for physical access for persons with disabilities to all new public and private buildings; however, the authorities did not enforce this law uniformly. There was a Subsecretariat for Rehabilitation under the Ministry of Public Health, a recreation center for persons with disabilities in Las Caobas, and a department in the Sports Ministry to facilitate athletic competition for such persons. However, there was little consciousness of the need to make the daily lives of persons with disabilities safer and more convenient. For example, new street construction made few provisions for such persons to cross the streets safely.

The Dominican Rehabilitation Association (ADR), which receives about 30 percent of its budget from the Government, had 17 affiliates throughout the country and provided services for 2,500 persons daily.

Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

National/Racial/Ethnic Minorities

A strong prejudice against Haitians exists and disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of African descent (see Sections 1.d. and 2.d.). The Government rarely acknowledged the existence of this discrimination.

Efforts to stem the influx of illegal Haitian immigrants made it more difficult for those Haitians already in the country to live peacefully or legally. Although infrequently enforced, police regulations threatened those offering transportation to illegal immigrants with confiscation of their vehicles and discouraged taxi and bus drivers from picking up darker-skinned persons. In roundups of illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see Section 1.d.).

Perhaps 500,000 Haitian immigrants—or 6 percent of the country's population—lived in shantytowns or sugar cane work camps, in harsh conditions with limited or no electricity, running water, or schooling. There were estimates that as many as 1 million Haitians lived in the country. Human rights groups regularly charged the Government with unlawful deportations of, and police brutality toward, these immigrants—most of whom resided in the country illegally and therefore received little or no protection under the law (see Sections 1.c., 1.d., and 2.d.).

The Government refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see Section 2.d.). Since many Haitian parents never possessed documentation for their own births, they were unable to demonstrate their own citizenship or that of their children. Lack of birth registration sometimes deprived children of Haitian descent of the opportunity to attend school where there was one available. Even when permitted to attend primary school, the children of Haitian parents rarely progressed beyond sixth grade. In 2001 the Secretary of Education announced that all children would be allowed to enroll in school through the eighth grade, whether or not they had a birth certificate. The Central Electoral Board agreed to facilitate acquisition of birth certificates by parents who could produce identity cards in order that all

children would have birth certificates to enroll in school. NGOs reported that higher numbers of Haitian children enrolled in school during the year, and according to a census conducted by the Secretariat of Education, at least 63,000 children without birth certificates—of both Dominican and Haitian parents—attended school.

Sometimes poor Haitian families arranged for Dominican families to "adopt" and employ their children to ensure a more promising future for them. The adopting parents registered the child as their own. In exchange, the parents received monetary payment or a supply of clothes and food. In many cases, adoptive parents did not treat the adoptees as full family members and expected them to work in the households or family businesses rather than attend school, resulting in a kind of indentured servitude, at least until the young person reached majority (see Section 6.c.). There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to organize. Organized labor represented an estimated 10 percent of the work force and was divided among four major confederations and a number of independent unions. There were 3,524 registered unions in the country, but an estimated 61 percent were inactive. The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The code calls for automatic recognition of a union if the Government has not acted on its application within 30 days. In practice, the Government readily facilitated recognition of labor organizations.

The Government generally respected association rights and placed no obstacles to union registration, affiliation, or the ability to engage in legal strikes. However, enforcement of labor laws was sometimes unreliable, inhibiting employees from freely exercising their rights.

Unions were independent of the Government and generally independent of political parties. The law forbidding companies to fire union organizers or members was enforced selectively, and penalties were insufficient to deter employers from violating worker rights. The Dominican Solidarity Center asserted that since the 1999 privatization of the sugarcane industry, employers had been responsible for the disappearances of over 150 union organizers or members (see Section 1.b.). There were additional reports of widespread discreet as well as overt intimidation by employers in an effort to prevent union activity, especially in the Free Trade Zones (see Section 6.b.).

The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) reported significant antiunion activity at the FM company in Santiago between July and September. According to FEDOTRAZONAS, when manager Jose Miguel Torres could not dissuade the organizing committee from forming a labor union within FM, management attempted to plant three new "workers" in the burgeoning union. These three new workers, wielding machetes, beat members of the organizing committee, one of whom eventually shot and wounded one man holding a machete. A day later, the two remaining members of the antiunion group showed up in front of the company with a truckload of heavily armed ruffians to look for the rest of the organizing committee, the remainder of whom had fled. On October 25, the organizing committee once more informed management of employees' intent to unionize. Management again brought in additional "workers" who physically assaulted members of the organizing committee, and on November 29, violently expelled those members of the organizing committee who refused to stop prounion activity. As a result of these incidents, the Labor Secretariat cited the FM company for violating the Labor Code.

According to the Dominican Solidarity Center, in September approximately 140 employees of the FTZ company Ramsa in Santiago were fired without cause when they were forming a collective bargaining agreement; 98 percent of those fired were union members or pregnant women. Management allegedly bribed eight union organizers about \$55,000 (1 million pesos) each in order to dissuade them from further prounion activity or agitation. The Secretariat of Labor cited Ramsa for several infractions of the Labor Code, including maternity rights violations, and charged the company with violating the Penal Code. This was the first time the Government brought a case of this sort against a FTZ company; the initial hearing on the matter was scheduled for January 2003.

In 2000 the Caribbean Sugar Producer's Consortium laid off 150 workers at its sugar mill in Consuelo in retaliation for having formed a trade union. A court order succeeded in getting the majority of the workers reinstated, and those persons received some compensation for the period during which the workers were unemployed. Those who were not reinstated still had not received compensation at year's end, and the original owners left the country, making it difficult to enforce the court's judgment.

Labor unions can and do affiliate freely regionally and internationally.

b. The Right to Organize and Bargain Collectively

Collective bargaining is legal and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and found that in many cases they could impede collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or

activities; however, in practice, workers sometimes were fired because of their union activities.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, enforcement of judgments was sometimes unreliable.

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Requirements for officially calling a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. Brief work stoppages, or unofficial strikes, were more common. During the year, members of several major transportation unions briefly walked off the job to protest countrywide toll hikes. The Government sometimes responded with force to disperse demonstrations in support of strikes (see Section 2.b.).

In June the Secretariat of Labor charged a Korean-owned FTZ company with violating the Hygiene Code in an incident in which toxic fumes sickened approximately 100 employees. (The company had been repainting work areas during business hours.) This led the local union to initiate a collective bargaining agreement, but the company refused to negotiate several clauses, and negotiations broke down completely on December 4. In October the company began laying off workers, including a large number of union members and activists. By year's end, the factory had begun moving equipment and primary materials to an affiliate located in the Moca FTZ.

The Labor Code applies in the 40 established FTZs, which employed approximately 160,000 workers, mostly women. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better, and the pay was occasionally higher. Mandatory overtime was a common practice, and it was sometimes enforced through locked doors or loss of pay or jobs for those who refused (see Section 6.c.).

There were reports of widespread discreet intimidation by employers in the FTZs in an effort to prevent union activity (see Section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. In the FTZs, while there may be as many as 10 collective bargaining agreements on paper, only 3 actually functioned. The majority of the unions in the FTZs are affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or the FEDOTRAZONAS. FENATRAZONAS estimated that only 3 percent of the workers in the FTZs were unionized.

Many of the major manufacturers in the FTZs had voluntary "codes of conduct" that included worker rights protection clauses; however, it was not known if they incorporated the ILO's Fundamental Principles and Rights at Work. In general, workers rarely had heard of such codes or the principles they set out. It also was not known how many workers received training about the codes, if workers had any effective means of asserting their rights under them, or whether any of the codes were subject to credible independent monitoring.

c. Prohibition of Forced or Bonded Labor

The law prohibits all forms of forced or bonded labor, including by children; however, such practices still existed in the adult worker population and among children in the informal sector. Young children "adopted" by families worked under a kind of indentured servitude, and homeless children were made to beg by adults (see Section 5). Trafficking in women and children, particularly for purposes of prostitution, was also a problem (see Section 6.f.).

The FENATRAZONAS noted that mandatory overtime in the FTZ factories was a common practice. Workers also reported that their employers locked factory doors with chains so they could not leave, and took incentive pay away from or fired those who refused to work overtime. For example, many companies used an incentive system in which a team of 12 to 15 persons was given a quota to fill by the end of the week, in order to receive extra benefits. Most teams were unable to fill the quota to receive the benefits and were not paid overtime pay for the extra time they put in to attempt to fill the quota. Union officials stated that newly hired workers were not informed that overtime was optional.

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Code prohibits employment of children less than 14 years of age and places restrictions on the employment of children under the age of 16; however, child labor was a serious problem. Restrictions for children between the ages of 14 and 16 include limiting the daily number of working hours to 6, prohibiting employment in dangerous occupations or in establishments serving alcohol, and limiting nighttime work. A company could face legal sanctions and fines if caught employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs. A national child labor survey conducted by the Labor Ministry found that 428,720 children between the ages of 5 and 17 worked. (The total estimated population for this age group was 2.4 million.) Of these children that worked, 56 percent were less than age 14; 21 percent were between 14 and 15, and the remaining 23 percent were adolescents 16 or older; 90 percent of those that worked also attended school.

The high level of unemployment and lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income (see Section 5). Tens of thousands of children began working before the age of 14. Child labor took

place primarily in the informal economy, small businesses, clandestine factories, and prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. The Government attempted to eliminate the use of children for cutting sugar cane; however, there were still some reports that poor Haitian and Dominican adolescents accompanied their parents to work in the cane fields, with the tacit acceptance of sugar companies. Also, human rights groups reported a slight increase in the number of undocumented Haitian 14- and 15-year-olds working in the cane fields.

The Ministry of Labor, in collaboration with the ILO's Program on the Eradication of Child Labor and other international labor rights organizations, implemented programs to combat child labor. These included the national child labor survey and a program to remove children from dangerous agricultural work in San Jose de Ocoa, Constanza, and Azua. The Constanza program removed over 550 children, twice as many as the targeted number, from work in hazardous agriculture, and placed them in schools.

The law prohibits forced or compulsory labor by children; however, such practices persisted in the informal sector, and trafficking in girls was a serious problem (see Section 6.f.). There were no confirmed reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work

The Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress also may enact minimum wage legislation. The minimum monthly salary was \$135 (2,490 pesos) in the FTZs, and \$200 (3,690 pesos) outside the FTZs. The minimum wage did not provide a decent standard of living for a worker and family; it only provided approximately one-third of the income necessary to sustain an average family. The national poverty level, which was based on a basket of goods and services consumed by a typical family, was \$357 (6,607 pesos) per month for a family of five.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek was Monday through Friday plus a half day on Saturday, but longer hours were common. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime was mandatory at some firms in the FTZs (see Section 6.c.).

Conditions for agricultural workers were poor, especially in the sugar industry. Most sugar cane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Employers often did not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dried and weighed less. Many cane cutters earned less than \$4.00 (80 pesos) per day and were paid in tickets that were redeemable for cash every 2 weeks. Because workers earned so little and sometimes could not wait until payday to redeem their tickets, an informal barter system evolved in which the tickets also were used to purchase items at private stores located on the plantations. These private stores made change by giving back a combination of tickets and cash, but the stores often retained 10 percent of the cash due a customer.

The Dominican Human Rights Committee and shantytown residents reported that conditions of work for cane workers had deteriorated since the industry was privatized in 1999. In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving. Employers also withheld wages to keep workers in the fields. Workers reportedly were paid less, worked longer hours, and had fewer benefits, according to the committee. The Dominican Solidarity Center reported that since 1999, over 150 union organizers or members within the sugarcane industry disappeared (see Section 1.b.). The center alleged that employers were responsible for these disappearances.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. During the year, Congress passed a new Social Security law that expanded coverage of the social security programs. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 250 inspectors who seek to improve sanitation, health care, and safety for workers. Included in this number was a smaller, specialized corps (eight in Santo Domingo) of inspectors for the FTZs. Inspector positions customarily were filled through political patronage, and bribes from businesses were common. In practice workers could not remove themselves from hazardous working situations without jeopardizing employment.

f. Trafficking in Persons

There was no comprehensive law to prohibit trafficking in persons or to provide victim services, although several laws could be used against it. Trafficking in women and children from, to, and within the country remained a serious problem. Women 18 to 25 years of age were at the highest risk for being trafficked. Principal destination countries were in Europe and Latin America, and included Spain, Italy, the Netherlands, Switzerland, Germany, Greece, Belgium, Curacao, San Martin, Aruba, Panama, Venezuela, and Argentina. Women were trafficked to the United States, although in smaller numbers. Within the country there was a serious problem of prostitution of minors, primarily in the tourist areas. The ILO and the International Organization for Migration (IOM) reported a growing problem of Haitian women and children being trafficked to beg in the streets; according to the Director General of Migration, the trafficking ring linked to these beggars was under investigation.

Government agencies that had a role in combating trafficking often kept statistics only on illegal immigration, since they seldom differentiated between trafficking and illegal immigration. NGOs such as the Center for Integral Orientation and Investigation (COIN), and international organizations such as UNICEF and IOM that worked with trafficking victims, were able to provide general numbers through interviews with individuals and extrapolation. The Directorate of Migration estimated that there were approximately 400 rings of alien-smugglers, traffickers, and purveyors of false documents operating within the country. These individuals profited by facilitating the trafficking of women to Europe and the Eastern Caribbean under false pretenses and for purposes of prostitution. According to COIN and IOM, traffickers were usually small groups involving just a few people. Usually there was a contact in the destination country and a few persons in the Dominican Republic who handled obtaining identification and travel documents and recruited the persons to be trafficked.

According to the Directorate of Migration, individual members of that directorate, the armed forces, or National Police who facilitate, condone, or were complicit in trafficking activities or migrant smuggling were investigated, and fired or prosecuted when appropriate. NGOs reported corruption among the military and migration border officials and noted that these officials sometimes cooperated with the transit of Haitian workers into the country to work on sugar plantations and construction sites (see Sections 2.d. and 6.d.).

Accion SIDA, an HIV/AIDS NGO, estimated that children constituted 10 to 15 percent of the total number of persons engaged in the country's sex industry. Some elements within the tourist industry facilitated the sexual exploitation of children; particular problem areas were Boca Chica and Puerto Plata. Tours were marketed by foreigners overseas with the understanding that boys and girls could be found as sex partners. In July the National Prosecutor's Office and the Association of Hotels signed an agreement to combat the exploitation of children in the tourist industry. Journalists reported that a large number of prostitutes in brothels around the National District appeared to be between 16 and 18 years of age. Newspaper reports indicated that as many as 30,000 children and adolescents may be involved in the sex industry. There were several church-run shelters that provided refuge to children who escaped prostitution. Prostitution was the principal means of exploitation of underage girls in the informal economy.

The Interinstitutional Committee for the Protection of Migrant Women, composed of seven governmental institutions, one professional association, two nongovernmental organizations and a religious order, became the lead organization dealing with this problem through its regular monthly meetings and its cosponsorship of an August seminar on the role of the State and civil society with respect to fighting trafficking. It also assumed a coordination function since it was comprised of the key agencies and organizations interested in and responsible for combating trafficking.

The Secretariat of Labor also became much more involved with trafficked minors through its program to fight the worst forms of child labor. The ILO began a pilot program in Boca Chica to identify and work with children involved in the sex trade and to coordinate with the Secretariats of Health and Education to provide psychological support and medical assistance, and to return the children to the classroom.

COIN counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other issues including the dangers of trafficking, forced prostitution, and domestic servitude. The program also provided services to returning women. COIN administered the Center for Health and Migration Information for Migrant Women that carried out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude.

Several laws may be applied to prosecute those who traffic in persons, one of which establishes sanctions against alien smugglers involved in illegally transporting people into and out of the country. That law provides that persons involved in planning, financing, facilitating, or organizing the illegal transportation of persons shall be imprisoned for a period of 3 to 10 years and fined \$600 to \$3,000 (10,000 to 50,000 pesos). However, in practice if these smugglers were foreigners, they did not spend time in prison; they were simply deported. The law also provides that if military personnel, police officers, or agents of the public authority participate in the commission of the acts mentioned, the tribunal shall impose the maximum penalties. In addition, a law specifically targeting procurers of prostitutes may be used to combat trafficking in persons; it imposes jail terms of 2 to 10 years and fines of up to \$6,000 (100,000 pesos) for traffickers involved in the promotion of prostitution. This law makes procurement of minors and adolescents, as well as threats of violence, aggravating factors. The 1997 Law Against Domestic Violence, as well as the Minor's Code, create protection under both civil and criminal law against particular situations that may be conducive to, or acts that may be a part of, the traffic in persons, whether female or male, minors or adults. There is no law that provides substantial protection and rehabilitation services to victims of trafficking.

According to the Directorate of Migration, cases of trafficking were investigated actively. In October members of the Armed Forces and migration authorities were investigating a ring of traffickers in La Vega, a point of origin for many trafficked women who ended up in Switzerland and Austria, but no arrests had been made.

The Oversight Organization for the Protection of Children sought to prevent abuse of the child adoption process by those intending to sell or exploit children through prostitution or child pornography. The Department of Family and Children was concerned about kidnappings, especially of infants, for sale to foreigners who deliberately sidestepped legal formalities—including those of their own country. The Government sought to protect children from being victimized by those who would adopt them. Many children left the country as adoptees, but government officials made such adoptions more difficult to deter would-be traffickers from abusing the system.

The Government did not have services for assisting trafficking victims such as temporary or permanent residency status, relief from deportation, shelter, or access to legal, medical and psychological services. When trafficked individuals were repatriated from abroad, they were given a "control record" that went into their official police record, and they were interviewed by a Migration Inspector. According to COIN, most victims were too embarrassed or afraid to seek legal action against traffickers. The Government initiated specialized training for Dominican Consuls posted in Europe on how to provide assistance to trafficked persons. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar populations.